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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/823,386	04/12/2004	William J. Johnson	022273-000400US	3386
20350	7590	07/15/2005	EXAMINER	
TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834			MARC, MCDIEUNEL	
			ART UNIT	PAPER NUMBER
			3661	

DATE MAILED: 07/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/823,386

Applicant(s)

JOHNSON, WILLIAM J.

Examiner

McDieunel Marc

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 April 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-85 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 5,9,11 and 14-56 is/are allowed.
6) ☒ Claim(s) 1-4,6-8,10,12,13,57,59-74 and 76-85 is/are rejected.
7) ☒ Claim(s) 58 and 75 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-85 are pending.
2. Applicant's arguments with respect to claims 1-4, 6-8, 10 and 12-13 have been considered but are moot in view of the new ground(s) of rejection. See rejection below.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 6-8, 10, 12-13, 57, 59-74 and 76-85 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Kubbler *et al.*** (U.S. Pat. Pub. US 20040264442A1) in view of **Thakker** (U.S. Pat. No. 6,246,948 B1).

As per claims 1 and 68, Kubbler *et al.* teaches a method for automatically sending situational location dependent information to a mobile receiving system (see fig. 45), said method comprising the steps of: registering said receiving system with service for eligibility to receive said information at said receiving system [sections 0292 and 0300]; automatically communicating requests containing Global Positioning System coordinates of said receiving system to requesting said service, by system event means

for said receiving system over an internet connection to said service [section 0300, 0353 and 0354]; said Global Positioning System coordinates automatically determining for said receiving system []; automatically determining by said service that said receiving system is eligible to receive said information [section 0359, particularly (As this process takes place, a report can also be generated via a peripheral or premises LAN printer at the destination dock for receipt signature. Similarly, the peripheral LAN modem on the destination dock can relay the delivery information back to the host computer)]; automatically retrieving from a deliverable content database by said service said information according to a situational location including said Global Positioning System coordinates, said information for user interface presentation by said receiving system; [sections 0359 and 0434, particularly, gather additional information needed and from the inventory information, the inventory computer 4511 generates purchase orders for subsequent delivery automating the entire process], which implies the system contains a content database; and automatically sending said information from said server to said receiving system over an internet connection [see abstract and section 0107, wherein the use of Internet is a known feature in the art]. Kubbler et al. does not physically teach physical location coordinates.

Thakker teaches a wireless intelligent vehicle speed control including the limitation of physically teach physical location coordinates (see col. 4, lines 12-35, particularly physical location coordinates).

It would have been obvious to one of ordinary skill in the art at the time of the invention to introduce the use physically teach physical location coordinates had been recognized by Thakker as an important feature of the invention to modify Kubbler' s et al. teaching, because this modification would have enhanced Kubbler' s et al. so that current geographic location of a vehicle could be determined, thereby improving the efficiency and the reliability of the system and method for proactive content delivery by situational location.

As per claim 2-4, 6-8, 10, 12-13, 57, 59-74 and 76-85, Kubbler *et al.* teaches a method that further including the step of presenting said information to a user interface of said receiving system [see abstract and section 0107 as described above]; automatically determining a candidate delivery event for said receiving system according to a movement tolerance and communicating a request containing Global Positioning coordinates to said service [see section 0359 as described above]; maintaining a history of information sent; and preventing redundant delivery information [see section 0435 and 0455]; said information is a content delivery indicator for user selection to retrieve associated content and [see abstract and section 0485]; said information is a content delivery indicator indicating existence of deliverable content [see abstract and section 0485]; said information is a content delivery indicator indicating that delivery content was too large in size to be deliverable [see section 0486]; said receiving system is used to configure said deliverable content database over an Internet connection [see abstract and section 0107 as described above]; monitoring for a user action at said receiving system, said user action for enabling or disabling subsequent of said delivery information to said receiving system [see entire document, particularly section 0359 particularly preventing delivery of unwanted goods].

Allowable Subject Matter

5. Claims 5, 9, 11 and 14-56 are allowed.
6. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fail to teach or fairly suggest with respect to claim 5, a method that further including the step of using said history to prevent sending redundant delivery information; with respect to claim 9, a method that further including the step of

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automatically communicating to an other system from said receiving system upon user selection of an invocable speed reference, said speed reference part of said delivery information; and with respect to claim 11, a method wherein said server uses application specific fields together with said situational location to search for, and retrieve, said delivery information; with respect to claim 14 a method for automatically presenting situational location dependent information to a user interface of a receiving system, comprising the step of determining a physical location of said receiving system with triangulation measurements between said receiving system and a plurality of base stations; with respect to claim 19, a method for automatically sending situational location dependent information from a server to a receiving system, comprising the steps of determining a physical location of said receiving system with triangulation measurements between said receiving system and a plurality of base stations in combination with the other elements of the claimed invention.

7. Claims 58 and 75 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fail to teach or fairly suggest automatically communicating to an other system from said receiving system upon user selection of an invocable speed reference, said speed reference part of said information in combination with the other elements of the claimed invention.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to McDieunel Marc whose telephone number is (571) 272-6964. The examiner can normally be reached on 6:30-5:00 Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


McDieunel Marc

Monday, July 11, 2005

MM/